

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**JAMES MORROW, STEPHEN
STUART WATSON, AMANEE BUSBY,
YUSELFF DISMUKES, LINDA DORMAN,
MARVIN PEARSON, JENNIFER
BOATWRIGHT, and RONALD
HENDERSON, and a Proposed Class
of Other Similarly Situated Persons,
Plaintiffs,**

V.

CITY OF TENAHA DEPUTY CITY MARSHALL, BARRY WASHINGTON, In his Individual and Official Capacity; CITY OF TENAHA MAYOR GEORGE BOWERS, in his Individual and Official Capacity; SHELBY COUNTY DISTRICT ATTORNEY LINDA KAY RUSSELL, in her Individual and Official Capacity; SHELBY COUNTY DISTRICT ATTORNEY INVESTIGATOR DANNY GREEN, in his Individual Capacity only; and SHELBY COUNTY PRECINCT 4 CONSTABLE RANDY WHATLEY, in his Individual and Official Capacity, Defendants.

Civil Action No. 2:08-cv-288

JUDGE: RODNEY GILSTRAP

PLAINTIFFS' MOTION TO DISMISS WITH PREJUDICE OF ALL OF PLAINTIFFS'
CLAIMS AGAINST ALL SHELBY COUNTY DEFENDANTS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME the Plaintiffs and file this Motion to Dismiss With Prejudice all of their claims against all Shelby County Defendants¹ in this case pursuant to F.R.C.P.

¹ Reference to the "Shelby County Defendants" is meant to include the originally named Defendants from Shelby County and the realigned Defendants from Shelby County in both their individual and official capacities, including Randy Whatley, the Shelby County Precinct 4 Constable's Office, Danny Green, Linda K. Russell, The Shelby County District Attorney, and Shelby County. "Shelby County Defendants" does not include any City of Tenaha Defendants.

41(a)(2), and in support thereof, would respectfully show as follows:

Under the terms of the Amended Decree (Dkt 363-1 at Section VI.C.) the Decree expired on July 24, 2020, 18 months after the Decree was entered. The Court recently denied Plaintiffs' Motion for a Second Amended Term (Dkt 409), determining that the purposes of the Consent Decree have been fulfilled. *Id.* The Court further determined and found that the Consent Decree seeks only to ensure that law enforcement agencies subject to the Decree pursue their duties with morality and integrity, and that such pursuit has been achieved. *Id.* Further, all matters between Plaintiffs and the Shelby County Defendants, including the issue of Shelby County Defendants' liability for Plaintiffs' attorney's fees pursuant to the Court's fee award at Dkt 410, and the fees billed by Plaintiffs since April 1, 2020 pursuant to Amended Decree Section V.B., have been resolved. Nothing in this Motion is intended to in any way reduce the remaining Defendants' liabilities in this case. Therefore, Plaintiffs move to dismiss all of their claims in this case against all Shelby County Defendants, with prejudice.

Respectfully submitted,

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/s/ Timothy B. Garrigan

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing instrument was served upon all counsel of record in the above entitled and numbered cause on October 14, 2020, in the following manner:

 X Via ECF

/s/ Timothy B. Garrigan

TIMOTHY B. GARRIGAN

CERTIFICATE OF CONFERENCE

The undersigned confirms discussion with counsel of record for Defendants to comply with the Meet and Confer requirements of Local Rule 7 for the Eastern District of Texas. The undersigned spoke telephonically with defense counsel attorney Chad Rook representing the Shelby County Defendants and defense counsel attorney Erika Neill representing the City of Tenaha Defendants on several occasions, including on October 12, 2020, regarding the relief sought in this Motion. Counsel for the Shelby County Defendants, Chad Rook, has indicated the County Defendants are in agreement with this Motion. Counsel for the City Defendants, Erika Neill, has indicated the City Defendants are opposed to this Motion for the reason that the Defendants are joint and severally liable for the attorney's fees awarded by this court or incurred by Plaintiffs' counsel to date. Accordingly, the discussion with Attorney Neill conclusively ended in an impasse; however the City Defendants do not intend to file a response in opposing to this Motion.

/s/ Timothy B. Garrigan, 10.14.20
TIMOTHY B. GARRIGAN